(3) CH 004

IN THE HIGH COURT OF JUDICATURE CHHATTISGARH AT BILASPUR

W.P.NO. 2624 /2003

Single Bench

PETITIONER : G.R. Mandale
S/o Late Bugloo Ram Mandale,
Aged about 41 years,
Occupation:Govt.Servant
(Assistant Veterinary Field
Officer).
R/o Jangal Para, Ward No.2,
PO Nagari, District:Dhamtari(CG).

VERSUS

RESPONDENTS :
1) State of Chhattisgarh
Through the Secretary,
Agriculture (Animal Husbandry)
Department, DKS Bhawan,Raipur.

2) The Under Secretary,
Agriculture (Animal Husbandry)
Department, DKS Bhawan,Raipur.

3) Shri Babulal Khare,
Assistant Veterinary Field
Officer,
Veterinary Clinic Bansaguda,
Tehsil Bijapur,Distt.Dantewada

4) The Director,
Veterinary Health Services,
Raipur, District Raipur (CG).

P.R. No. 21533/03
Presented by Shri A. Tiwari
dated 21.08.03

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 2624 of 2003

Petitioner: G. R. Mandale

Versus

Respondents: State of Chhattisgarh & others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri**.

Miss Sunita Jain, Advocate for the petitioner.

Shri Pankaj Shrivastava, Panel lawyer for the Respondents No.1, 2 and 4.

None for respondent No. 3.

ORAL ORDER

(8th February, 2006)

The following order of the Court was passed by **Satish K. Agnihotri, J.**

1. The petitioner was working on the post of Assistant Veterinary Field Officer in the Animal Husbandry Unit, Nagari, District- Dhamtari. Vide impugned order dated 7.8.2003 (Annexure P/1) the petitioner was transferred to Veterinary Clinic, Bansaguda, District- Dhamtari. The petitioner has challenged the transfer order on the ground that the present transfer order was passed to accommodate the Respondent No.3, who was transferred to Animal Husbandry Unit, Nagri, on his own expenses.

2. Learned counsel for the respondents No. 1, 2 and 4 fairly concedes that the Respondent No.3 had made an application to the State Government for accommodating him at some place because he was under serious threat of his life by naxalites. There is no dispute that the petitioner was transferred to new place of posting in order to accommodate the Respondent No.3, but it does not amount to malafide exercise of powers. If an employee is

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transferred to a place on account of consideration of his representation, like; threat to his life, health problem, education of children etc. some other officer/employee has to be transferred to accommodate that person. It does not amount to malafide exercise of powers. Be that as it may, this Court by interim order dated 2.9.2003 stayed the impugned order and the petitioner continued to remain posted at the old place. The petitioner has been granted final relief by interim order. The petitioner could not continue at one place forever.

3. It is well settled principle of law that transfer is an incident of service and it is for the employer to decide as to where a particular officer/employee be posted keeping in view public interest as well as administrative exigency. This Court has limited jurisdiction to interfere in the transfer matter and this Court can interfere only in the case of proved malafide, non-competence of authority passing the transfer order and transfer order not being in conformity with the rules and regulations. In the facts and circumstances of the case, it is not necessary to examine validity of the transfer order at this stage. In the facts of the case, the respondents are expected not to insist upon compliance of the impugned transfer order.

4. This petition has become infructuous with the passage of time. Accordingly the petition is dismissed as having become infructuous. However, respondents/authorities are at liberty to pass appropriate order for posting the petitioner in the public interest and administrative exigency, in accordance with law. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge